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1 Relevant Legislation

1.1 What is the relevant legislation and in outline what does each piece of legislation cover?

Belgian legislation on public procurement has been codified in the Act of 15 June 2006 on public procurement contracts and certain contracts for works, supplies and services. This Act contains the core of both the coordination and the codification of all existing public procurement regulations and of the transposition into Belgian law of the 2004 European Procurement Directives.

The most important Royal Decrees implementing the Act of 15 June 2006 are:

- Royal Decree of 15 July 2011 on the award of public procurement contracts in the "ordinary sectors";
- Royal Decree of 16 July 2012 on the award of public procurement contracts in the "special sectors" (i.e. in the water, energy, transport and postal services sectors);
- Royal Decree of 24 June 2013 on the award of public procurement contracts by private entities with exclusive rights in the "special sectors"; and
- Royal Decree of 14 January 2013 determining the general rules of execution of public procurement contracts and concessions for public works.

This regulatory framework governing public procurement has been complemented by the Act of 17 June 2013 concerning the motives, the information and the legal remedies with regard to public procurement contracts and certain contracts for works, supplies and services.

1.2 Are there other areas of national law, such as government transparency rules, that are relevant to public procurement?

The principles of general Belgian constitutional and administrative law apply. The constitutional principles of government transparency, equality, and non-discrimination (articles 10 and 11 of the Belgian Constitution) are the most relevant to public procurement, as well as the Act of 29 July 1991 on the formal notification of the reasons for administrative acts, which requires all administrative authorities to give factual and legal reasons for individual decisions.

1.3 How does the regime relate to supra-national regimes including the GPA, EU rules and other international agreements?

The Act of 15 June 2006 transposes the EC Directives on public procurement, which are in turn influenced by the GPA rules. To the extent that these Directives contain precise and unconditional stipulations, they have direct effect in the Belgian legal order. In cases in which Belgian legislation is contrary to European public procurement rules, the latter prevails.

1.4 What are the basic underlying principles of the regime (e.g. value for money, equal treatment, transparency) and are these principles relevant to the interpretation of the legislation?

Contracting authorities must respect the general principles relating to good administration and the fundamental principles of the Treaty on the Functioning of the EU when awarding public contracts. Of these general principles, the most relevant in terms of public procurement are equal treatment and non-discrimination, free competition, transparency, legal certainty and proportionality. These principles can be used when interpreting Belgian (and European) public procurement law, and must be taken into consideration in situations where no explicit regulation exists.

1.5 Are there special rules in relation to procurement in specific sectors or areas?

Specific rules exist concerning the award of public procurement contracts in the "special sectors" (i.e. in the water, energy, transport and postal services sectors) and for private entities with exclusive rights in the special sectors.

With regard to contracts in the field of defence and security, the Directive 2009/81/EC on defence and security procurement has been implemented by the Act of 13 August 2011 on public contracts and certain contracts for works, supplies and services in the field of defence and security.

2 Application of the Law to Entities and Contracts

2.1 Which public entities are covered by the law (as purchasers)?

Article 2 of the Act of 15 June 2006 enumerates contracting authorities covered by the public procurement rules in the ordinary sectors. These contracting authorities are principally the "public authorities" (State, regions, communities, provinces, municipalities and the associations formed by one or more of these entities), and the entities fulfilling the following criteria:

- having legal personality;
- being established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; and
- being financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; being subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by those bodies.

In accordance with the European Directives, the Belgian legislation has a broader field of application in the special sectors. In addition to the contracting authorities mentioned in the ordinary sectors, the special sectors regulation also includes "public undertakings" (i.e. any undertaking over which the public authorities have a dominant influence) and some private entities.

2.2 Which private entities are covered by the law (as purchasers)?

All private entities meeting the criteria mentioned above (in question 2.1) fall within the scope of application of the procurement legislation.

In addition, some private entities are covered by the public procurement legislation in the special sectors. This concerns especially the entities operating on the basis of special or exclusive rights. Special or exclusive rights are rights granted by a competent authority of a Member State by means of any legislative, regulatory or administrative provision, the effect of which is to limit the exercise of activities in the fields of water, energy, transport and postal services to one or more entities, and which has a substantial impact on the ability of other entities to carry out such activity.

2.3 Which types of contracts are covered?

The public procurement rules cover contracts for pecuniary interest concluded in writing between a contractor, a supplier, or service provider and a public purchaser for the undertaking of works, supplies, and/or services. Public works contracts cover the execution of general building and civil engineering works in conformity with the requirements specified by the public purchaser. The design of the works may also be included in the contract. Public supply contracts relate to the delivery of products. Delivery in this context includes purchase, lease, rental or hire purchase, with or without an option to buy. Public service contracts cover all the services mentioned in annex II of the Act of 15 June 2006.

2.4 What obligations do purchasers owe to suppliers established outside your jurisdiction?

In general, contracting authorities must treat suppliers (in addition to contractors and service providers) in an equal, non-discriminatory and transparent way. The principles of equal treatment, non-discrimination, mutual recognition, proportionality and transparency apply especially to economic operators that are settled in the European Union.

Economic operators from third countries can only submit requests to participate in a tender procedure if they can rely on an international treaty or an act of an international institution, respecting the limits and conditions thereof. Contracting authorities may, however, provide more flexible conditions in the procurement documents (see article 21 of the Act of 15 June 2006).

2.5 Are there financial thresholds for determining individual contract coverage?

All contracts are subject to Belgian procurement legislation. As a principle, the (Belgian) publication of the announcement of the contract is required, even when the European threshold values are not met, unless the negotiated procedure without publication can be used.

The threshold values above which European publication of the announcement of the contract is obligatory in the Belgian legislation are those of the EU public procurement legislation, which are currently mentioned in the Commission Regulation No 1336/2013 of 13 December 2013 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council, in respect of the application thresholds for the procedures for the awards of the contract 'Text with EEA relevance'.

2.6 Are there aggregation and/or anti-avoidance rules?

It is forbidden to split up contracts that are to be considered as one work, supply or service contract, and that are valued above the threshold values for the purpose of obtaining different contracts that are below those values.

At the same time, it is forbidden to subdivide a contract into different contracts in order to avoid the application of the European threshold values.

2.7 Are there special rules for concession contracts and, if so, how are such contracts defined?

Concessions contracts are contracts for pecuniary interest concluded in writing by means of which one or more contracting authorities or contracting entities entrust the management of services or the execution of works to one or more economic operators, the consideration for which consists either solely in the right to exploit the services or works that are the subject of the contract or in that right together with payment.

When awarding a public works concession, Belgian public procurement law allows the contracting authority to choose the procurement procedure freely, and to make use of the negotiated procedure. Furthermore, the rules on public procurement do not apply to service concessions.

2.8 Are there special rules for the conclusion of framework agreements?

Article 32 of the Act of 15 June 2006 provides the possibility to conclude framework agreements in the ordinary sectors. There is a specific requirement on the basis of article 32, subsection 2, of the Act of 15 June 2006, which is not required by Directive 2004/18: the same award criteria must be used for choosing the parties to a framework agreement and the award of contracts based on that framework agreement.

In Belgian legislation, the rules on framework agreements of article 32 of the Act of 15 June 2006 also apply to the special sectors (article 55 of the Act of 15 June 2006). As a result, there is less flexibility than required by the special sectors according to Directive 2004/17, which does not contain any specific rules on framework agreements.

2.9 Are there special rules on the division of contracts into lots?

Article 36 of the Act of 15 June 2006 provides that a contract can be divided into lots. Contracting authorities have the right to not award all of these lots and, if necessary, to decide that some lots will be part of one or more new contracts, which might be awarded in a different manner.

3 Award Procedures

3.1 What types of award procedures are available? Please specify the main stages of each procedure and whether there is a free choice amongst them.

Belgian public procurement legislation makes a distinction between four types of procurement procedures referred to as *aanbesteding/adjudication* and *offerteaanvraag/appel d'offres*, the negotiated procedure and the competitive dialogue.

In the case of an *aanbesteding/adjudication*, the contract must be granted to the tenderer who has submitted the lowest regular tender. In the case of an *offerteaanvraag/appel d'offres*, the contract must be granted to the regular and most advantageous tender, according to the criteria mentioned in the contracting documents. The contracting authority can choose freely between both procedures.

Both procedures may be awarded by means of an open or a restricted procedure. In an open procedure, all interested contractors may submit tenders. In a restricted procedure, only those contractors that are invited by the contracting authority may submit tenders.

The negotiated procedure allows the contracting authority to consult the economic operators of its choice and to negotiate the terms of the contract with one or more of them. This procedure can only be chosen in limited cases that are listed in the Act of 15 June 2006.

The competitive dialogue, which was introduced by the Directives of 2004, was only implemented in the Belgian legislation a few years ago.

3.2 What are the minimum timescales?

The main principles can be summarised as follows:

- If the European threshold values are met, tenders have, in principle, at least 52 days to submit a tender for open procedures. For restricted procedures, there is a timescale of 37 days to submit a request to participate and 40 days to submit a tender.
- If the European threshold values are not met, the minimum timescale is 36 days for open procedures. For restricted procedures, the minimum timescale is 15 days as from the mailing of the announcement; for the actual submission of the tender, the same minimum timescale of 15 days applies.
- In cases of urgency, or if the tender has already been notified before, or in cases of e-procurement, special rules on minimum timescales apply (in these cases, the time limit is reduced).

3.3 What are the rules on excluding/short-listing tenderers?

In accordance with the requirements of the European public procurement rules, the Royal Decree of 15 July 2011 contains rules concerning the situations in which a contracting authority has the obligation to exclude candidates that have been convicted of offences such as participation in a criminal organisation or corruption. The Royal Decree of 15 July 2011 also deals with situations in which a contracting authority has the possibility (not the obligation) to exclude candidates; for example, in cases of non-compliance with the obligations concerning the payment of social security contributions. Concerning the short-listing of tenderers, it should be noted that the selection of the tenderers must be based exclusively on the selection criteria contained in the tender notice and on the basis of documents enumerated in the tender notice as being required for the selection. The selection criteria may refer to technical and/or professional ability and economic and financial standing. The contracting authority may also restrict the number of tenderers by opting for a restricted procedure, where only the providers which fulfil the required conditions will be invited to submit tenders.

3.4 What are the rules on evaluation of tenders?

The contracting authority must award the contract either to the economically most advantageous tender or to the tender which contains the lowest price offer. If the contracting authority chooses to award the contract to the most economically advantageous tender, it is left to the contracting authority to determine the economic and quality criteria which, taken as a whole, must make it possible to determine the most economically advantageous tender for the contracting authority.

3.5 What are the rules on awarding the contract?

The criteria for the award of the contract should enable tenders to be compared and assessed objectively, and must be mentioned in the contract documents or in the tender notice.

The contracting authority must make a motivated decision when deciding on the selection of tenderers (in cases where the procedure exists of two phases; the first phase is the submission of applications for participation in the procedure), or when deciding on the award of the contract.

3.6 What are the rules on debriefing unsuccessful bidders?

Immediately after the award decision, the contracting authority notifies:

- every non-selected tenderer of the reasons for the non-selection, by distributing the relevant part of a copy of the motivated decision;

- every tenderer with an irregular or unacceptable tender of the reasons for the exclusion of his offer, by distributing the relevant part of a copy of the motivated decision; and
- every tenderer with an offer that, after assessment, does not constitute the economically most advantageous tender (in the case of an *offerteaanvraag/appel d'offres*) or which does not contain the lowest price (in the case of an *aanbesteding/adjudication*) of the motivated decision.

The notification must mention the time limit of the applicable standstill period and the recommendation to inform the contracting authority if the tenderer would choose to initiate a suspending procedure.

3.7 What methods are available for joint procurements?

In the event that two (or more) contracting authorities wish to set up the joint realisation of public works contracts, public supply contracts, or public service contracts, article 38 of the Act of 15 June 2006 provides the possibility of a joint procurement. The contracting authorities must designate the contracting authority or the legal personality which will act during the award and execution of the contract as their authorised representative.

Belgian public procurement rules also provide the possibility to make purchases using a central purchasing body, or on the basis of a framework agreement.

3.8 What are the rules on alternative/variant bids?

In principle, an economic operator must submit its best and final offer immediately.

If the specifications allow or oblige the formulation of variants, economic operators are permitted or obliged to state variants in their tender. The contracting authority must then make a detailed description in the specifications of what is required in order to lead to the desired result.

If the specifications do not mention the use of variant bids, stating that the contract will be awarded to the most advantageous tender, a tenderer may propose a variant bid on its own initiative, which contains alternative solutions for one or more aspects of the specifications. Such variant bids are allowed as long as they meet the minimum specifications required by the contracting authority, and respect specific requirements for their presentation (except when the European threshold value is not met, in which case it is not required that the minimum specifications for variant bids are mentioned in the contracting documents).

Article 10 of the Royal Decree of 15 July 2011 also provides the possibility that "options" are described in the specifications. An "option" can be defined as an accessory element that is not strictly necessary to perform the contract, and which is submitted either spontaneously or at the request of the contracting authority.

3.9 What are the rules on conflicts of interest?

Article 8, §1 of the Act of 15 June 2006 states that there is a prohibition for every civil servant, public authority figure or any other person who is linked to the contracting authority in any manner, directly or indirectly, to intervene in the award and the performance of a public contract if this could result, in person or through an intermediary, into a situation of conflict of interest with a candidate or a tenderer. This rule applies without prejudice to the application of other prohibitions arising out of a law, decree, ordinance, regulation or statute.

This conflict of interest is presumed to exist in cases such as when the person referred to in article 8, §1 is (directly or through an intermediary) owner, co-owner or partner in one of the candidate or tendering companies, or (directly or through an intermediary) exercises an executive or management authority in one of these companies (article 8, §2 of the Act of 15 June 2006).

4 Exclusions and Exemptions (including in-house arrangements)

4.1 What are the principal exclusions/exemptions?

The Belgian legislation concerning exclusions/exemptions is in accordance with the European Directives. Therefore, the public procurement rules do not apply to, for example, service contracts awarded on the basis of an exclusive right, contracts awarded pursuant to international rules, or the acquisition or rental of land, existing buildings or other immovable property.

4.2 How does the law apply to "in-house" arrangements, including contracts awarded within a single entity, within groups and between public bodies?

In principle, the relations between contracting authorities concerning the awarding of public contracts are subject to the same rules concerning public procurement as the relations between a contracting authority and a private entity.

There are, however, three general exceptions to this principle:

- The first exception concerns the award of contracts between two contracting authorities (in-house contracts), on the basis of the conditions stipulated in the case law of the Court of Justice (i.e. the *Teckal* case).
- The second exception concerns certain types of situations in which contracting authorities together seek to ensure the performance of their public tasks, according to the conditions stipulated in the case law of the Court of Justice.
- The third exception concerns delegation of powers, in cases where there is a full devolution of tasks, responsibility and power of decision from one contracting authority to another, and the contracting authority becomes a substitute, exercising all the competences of the initial contracting authority.

If one of these exceptions applies, the award of the contract will not be subject to the public procurement rules.

5 Remedies

5.1 Does the legislation provide for remedies and if so what is the general outline of this?

The Act of 17 June 2013 concerning the motives, the information and the legal remedies with regard to public procurement contracts and certain contracts for works, supplies and services, aims to ensure compliance of the Belgian legislation with the review procedures provided by Directive 2007/66. The rules of the Act of 17 June 2013 are applicable to procedures above the threshold for European publication, and are only partially applicable to some procedures under the European threshold values. In accordance with the Directive, the Act provides for various forms of (judicial) protection, and it clarifies the specific review body and the time limits in which these procedures must be introduced.

The Act contains a standstill obligation on the basis of which, within a time frame of 15 days between the notification of the award decision and the contract conclusion with the chosen tenderer, a suspending procedure of extreme urgency before the Council of State or a summary procedure before the civil courts can be introduced.

Other measures can also be requested, ranging from the suspension and annulment of decisions taken by the contracting authority, to damage claims or alternative sanctions. Normally, the suspension or annulment of the contract itself cannot be obtained, except in the cases which are exhaustively enumerated in the Act of 17 June 2013.

The possibility to obtain the ineffectiveness of the contract is also provided for in some cases.

5.2 Can remedies be sought in other types of proceedings or applications outside the legislation?

The Act of 17 June 2013 seems to exclude the initiation of other types of procedures for the contracts which fall under its scope.

For the other contracts, due to lack of specific proceedings, general Belgian (procedural) law can be utilised to its full extent in order to acquire some form of restitution or compensation. Various measures can be requested, ranging from the suspension or annulment of the different decisions taken by the contracting authority, to the suspension or annulment of the contract and damage claims. These measures can often be combined, even if all of them cannot necessarily be brought before the same judge.

5.3 Before which body or bodies can remedies be sought?

Suspension or annulment procedures against a decision of a contracting authority are brought before the Council of State, unless the contracting authority is not an administrative authority within the meaning of the coordinated laws on the Council of State of 12 January 1973. In this case, the suspension or annulment actions are brought before the civil courts.

The civil courts are exclusively competent for claims regarding the suspension and annulment of the public procurement contracts and for all disputes concerning the execution of these contracts.

However, civil courts are not exclusively competent to examine a claim for damages after a suspension or annulment by the Council of State. (If certain conditions are complied with, damages can be claimed before the Council of State by applicants or intervening parties after a judgment of the Council of State in which an illegality has been determined; see article 11*bis* of the coordinated laws on the Council of State of 12 January 1973.)

5.4 What are the limitation periods for applying for remedies?

If a decision falls under the scope of the Act of 17 June 2013, the suspending proceedings must be initiated, in principle, within a time frame of 15 days after the notification of the challenged decision. The annulment proceedings before the Council of State must be launched within a time frame of 60 days after the notification of the decision.

An action to obtain the ineffectiveness of the contract must, in principle, be initiated within 30 days after the day following the date on which the contracting authority has informed the tenderers and candidates concerned of the conclusion of the contract and, in any case, within six months after the day following the date of the conclusion of the contract.

An action for alternative sanctions must be launched within a time frame of six months.

In principle, damage claims before the civil courts must be initiated within a time frame of five years.

Damage claims before the Council of State on the basis of article 11*bis* in the coordinated laws on the Council of State of 12 January 1973 must be initiated within 60 days after the notification of the judgment of the Council of State in which the illegality has been determined.

5.5 What measures can be taken to shorten limitation periods?

Article 12 of the Act of 17 July 2013 enumerates a restricted number of cases in which no standstill-period must be observed. This Act does not provide any other measures to shorten the limitation periods described in question 5.4.

5.6 What remedies are available after contract signature?

The conclusion of the contract deprives a third party, in principle, of the possibility to obtain rehabilitation *in natura*, i.e. the possibility of being able to still obtain the award of the contract itself.

Third parties can nonetheless still try to obtain the annulment of the award decision before the Council of State, and/or the suspension/annulment of the contract before the civil courts. However, the suspension/annulment of the contract is only allowed in limited cases for contracts which fall under the scope of the Act of 17 July 2013 (see question 5.1).

Furthermore, damage claims can be introduced before the civil courts or before the Council of State (e.g. after an annulment of an award decision by the Council of State).

5.7 What is the likely timescale if an application for remedies is made?

This is highly dependent upon the type of procedure, the facts of each case, and the availability of the competent court.

Judicial proceedings may take a few weeks (e.g. suspending proceedings of extreme urgency before the Council of State or summary proceedings before the civil courts and tribunals), or one to two years (e.g. annulment proceedings before the Council of State or damage claim before civil courts).

5.8 What are the leading examples of cases in which remedies measures have been obtained?

The Belgian judicial system does not know the principle of 'precedents'.

Nonetheless, the jurisprudence of the Council of State in particular (the judgments of the civil courts and tribunals are only rarely published) is deemed a relevant source of law with respect to the enforcement of public procurement legislation.

5.9 What mitigation measures, if any, are available to contracting authorities?

No specific legislation exists in this regard.

6 Changes During a Procedure and After a Procedure

6.1 Does the legislation govern changes to contract specifications, changes to the timetable, changes to contract conditions (including extensions) and changes to the membership of bidding consortia pre-contract award? If not, what are the underlying principles governing these issues?

In principle, a contract will be awarded on the same terms as those set out in the specifications.

Before the award of the contract, Belgian legislation does not deal with changes to contract conditions. However, European and Belgian case law admit the possibility of modifications under certain conditions determined by that particular case law.

After the award of the contract, Belgian legislation provides that, regardless of the manner in which the prices are determined, the contracting authority is entitled to amend the original contract unilaterally, if three cumulative conditions are fulfilled: 1) the object of the contract remains the same; 2) the changes are limited to 15 per cent of the initial amount of the tender; and 3) the contractor receives, if necessary, an appropriate compensation (article 37 of the Royal Decree of 14 January 2013 determining the general rules of execution of public procurement contracts and concessions for public works). The general rules of execution also stipulate the conditions that allow contractors to apply for an extension of the time limit, or a review or revocation of the contract. The question of whether post-contract signature changes are permitted must be examined on a case-by-case approach on the basis of the principles of equality and transparency, and on the basis of the case law of the Court of Justice (e.g. *C-454/06, Pressetext Nachrichtenagentur*).

An extension of an existing contract must be considered, in principle, as a new contract and must, by consequence, be awarded in compliance with the public procurement rules.

6.2 What is the scope for negotiation with the preferred bidder following the submission of a final tender?

Belgian legislation does not deal specifically with this situation. However, the following principles seem to apply. After a submission of a "Best and Final Offer" (BAFO), the contracting authority may allow or request certain changes to the tender, for example to clarify understandings reached during negotiations or to rectify a material error. However, there can be no violation of the equal treatment of the tenderers, and these changes cannot have an impact on the overall ranking of the final tenders. Furthermore, the general balance between the rights and obligations of the parties, as determined by the specifications and the BAFO, should not be altered.

6.3 To what extent are changes permitted post-contract signature?

See question 6.1.

6.4 To what extent does the legislation permit the transfer of a contract to another entity post-contract signature?

No specific legislation exists in this regard. See question 6.1.

7 Privatisations and PPPs

7.1 Are there special rules in relation to privatisations and what are the principal issues that arise in relation to them?

Belgian legislation does not contain specific rules regarding privatisations. If a privatisation results in the procurement of goods, works and/or services, it is, in principle, subject to the public procurement rules in the same way as any other contract.

7.2 Are there special rules in relation to PPPs and what are the principal issues that arise in relation to them?

There are some laws which aim to facilitate the use of PPPs, e.g. by authorising public authorities to participate in joint ventures. These laws often concern a particular matter (e.g. social housing) and may provide for subsidies.

8 Enforcement

8.1 Is there a culture of enforcement either by public or private bodies?

The principle of enforcement by public bodies is not applied in Belgian public procurement legislation, even if Belgian administrative law makes it possible to ask the author of a contestable decision to revise his decision. Enforcement can be achieved principally by means of a judicial review, using the aforementioned proceedings before the Council of State and/or civil courts. It is common practice for unsuccessful tenderers to make use of these procedures, and several procedures are often combined.

8.2 What national cases in the last 12 months have confirmed/classified an important point of public procurement law?

In January 2015, the Council of State requested a preliminary ruling concerning article 53, section 2 of Directive 2004/18/EC. The EU Court of Justice will have to decide whether this article can be interpreted as meaning that, if the contract is awarded to the tenderer who submits the most economically advantageous tender, the contracting authority is always required to establish in advance, and indicate in the contract notice or contract documents, the method of assessment or the weighting rules, in light of which the tenders will be assessed in accordance with the award criteria or subcriteria.

9 The Future

9.1 Are there any proposals to change the law and if so what is the timescale for these and what is their likely impact?

The new European directives on public procurement (2014/24/EU and 2014/25/EU) must be implemented by 18 April 2016. A recent legislative proposal by the Belgian Council of Ministers aims to implement these directives and to replace the currently applicable Act of 15 June 2006. It can be expected that the proposal will soon be introduced in the federal parliament after the advice of the Council of State, and will be adopted by the end of 2015 or early 2016.

9.2 Are any measures being taken to increase access to public procurement markets for small and medium-sized enterprises and other underrepresented categories of bidders?

No general legislation exists in this regard.

However, specific measures are being taken by a number of contracting authorities. For example, a circular applies to the services of the federal state as defined in article 2, sections 1 to 4 of the Act of 22 May 2003, on the organisation of the budget and the accountability of the federal state. Specific instructions to these contracting authorities are stated in the circular of 16 May 2014 on the integration of sustainable development, including social clauses and measures for the benefit of small and medium-sized enterprises, in the context of contracts awarded by federal contracting authorities. These instructions include considering the possibility to divide the contract into lots and to make use of variants, determining proportionate requirements with regard to qualifications and financial capacity, and referring to small and medium-sized enterprises when using a negotiated procedure without publication.

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Stibbe

Stibbe is a leading law firm with over 160 legal specialists in its Brussels office, 30 of whom are partners. Our team assists both the (semi-) public sector and private sector in the complex world of public tenders, examining the applicability of the regulations, the actual award of public tenders, and within the context of potential disputes in carrying out tender contracts. From the bidding process through to the contracting stage and final execution, we offer full legal assistance.

This assistance encompasses, *inter alia*:

- advising on drawing up bids and the conduct of negotiations with the awarding authority;
- screening tenders;
- assessing the propriety of selection procedures;
- verifying assessments and the statement of reasons in award reports;
- screening draft award decisions;
- providing explanations to management;
- assisting in negotiating with the selected contractee in respect of preparing contract documentation; and
- if required, conducting court actions before the Belgian Council of State and the civil courts (in summary proceedings).

Significant Clients

Stibbe's procurement team assists clients from the (semi-) public sector such as local authorities, public companies, governmental institutions and utilities, and from the private sector, including financial institutions, ICT, construction and commercial companies. The team covers many markets such as ICT, public transport and public infrastructure, in addition to real estate, waste and energy.

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